

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP (797-1101)

**SUBJECT:** Ordinance - Vacation/Abandonment

Application No., Project Name and Location:  
VA 5-4-00, Epstein/Peterson Vacation

**TITLE OF AGENDA ITEM:**

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, VACATING A PORTION OF ROAD AND UTILITY EASEMENT WITHIN A PORTION OF THE NORTH ONE-HALF OF TRACT 19 IN SECTION 34, TOWNSHIP 50 SOUTH, RANGE 41 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:**

The applicant is requesting to vacate a portion of SW 59 Court right-of-way located east of SW 70 Avenue, extending approximately 255 feet in length east of the west limits of the site.

**PREVIOUS ACTIONS:**

Town Council approved application VA 5-4-00 on its merits (Motion carried: 5-0, January 17, 2001).

**CONCURRENCES:**

Applicable utilities have submitted letters of no objection.

Engineering Division recommends approval.

The Planning and Zoning Board recommended approval (motion carried: 5-0, January 10, 2001).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Motion to approve the ordinance.

**Attachment(s):** Ordinance, Planning Report, Justification Letter, Sketch and Description, Plat, Land Use map, Subject Site map, and Aerial.

**Prepared By:**  
Geri A. Baluss  
Town of Davie  
6591 Orange Drive  
Davie, FL 33314

**Return To:**  
Town Clerk's Office  
Town of Davie  
6591 Orange Drive  
Davie, FL 33314

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, VACATING A PORTION OF ROAD AND UTILITY EASEMENT WITHIN A PORTION OF THE NORTH ONE-HALF OF TRACT 19 IN SECTION 34, TOWNSHIP 50 SOUTH, RANGE 41 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a portion of the road and utility easement located within a portion of the North on-half of Tract 19, in Section 34, Township 50 South, Range 41 East, specifically described on Exhibit "A" attached hereto, was accepted as a public road and utility easement; and

WHEREAS, it is the desire of the Town Council to vacate and abandon a portion of such road and utility easement; and

WHEREAS, on the date of adoption of this ordinance Town Council did agree to such vacation.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That a portion of the road and utility easement located within a portion of the North one-half of Tract 19, in Section 34, Township 50 South, Range 41 East, specifically described on Exhibit "A" attached hereto, is hereby vacated by the Town of Davie.

SECTION 2. The 10 foot Florida Power & Light Easement as recorded in O.R. Book 9923, Page 622 of the Broward County records, located within the property described on

Exhibit "A" is not vacated and shall be maintained in perpetuity.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001.

PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001.

## COUSINS SURVEYORS &amp; ASSOCIATES, INC.



5005 S.W. 26TH AVENUE  
DAVIE, FLORIDA 33308  
CERTIFICATE OF AUTHORIZATION: 18-6440  
PHONE (954) 690-9885 FAX (954) 690-0213

PROJECT NUMBER : 2632-99

CLIENT :  
GRIFFIN, WARDER, HIRSCHFELD,  
RAFKIN, ROSS & BERGER

## LAND DESCRIPTION AND SKETCH

A PORTION OF THE 30' EXISTING ROAD & UTILITY EASEMENT (ORD 13023, PG. 875, BCR)

A PORTION OF THE NORTH ONE HALF (N 1/2) OF TRACT 19, SECTION 34 OF  
"EVENHARTS LAND SALES CO. SUBDIVISION OF SECTIONS 27 AND 34 AND THE WEST  
1/2 OF SECTIONS 26 AND 35 TOWNSHIP 10 SD RANGE 41 E DALLA COUNTY, FLORIDA"  
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 34 OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID NORTH ONE HALF (N 1/2) OF SAID TRACT 19,

THENCE ALONG THE SOUTH LINE OF SAID NORTH ONE-HALF (N 1/2) OF TRACT 19,  
SOUTH 89°17'10" WEST, A DISTANCE OF 245.00 FEET;

THENCE NORTH 01°56'32" WEST, A DISTANCE OF 30.00 FEET;

THENCE NORTH 89°12'00" EAST, A DISTANCE OF 245.00 FEET;

THENCE SOUTH 01°56'30" EAST ALONG THE EAST LINE OF SAID TRACT 19, A DISTANCE  
OF 30.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA

## LEGEND

CDX CONCRETE BLOCK STRUCTURE  
CWD COVERED BY  
CONE CONE TO  
COW COVER BY  
FTRG FIELD BOOK AND PAGE  
A/C ADD CONSTRUCTION TO  
P R PLAT BOOK  
L B LICENSE BUSINESS  
R C H BROWARD COUNTY RECORDS  
P O C POINT OF COMMENCEMENT  
P O B POINT OF BEGINNING  
FTR FUTURE POWER & LIGHT  
A CENTRAL ANGLE  
A ARC LENGTH  
S SLOPE  
WY WOOD YEMER FUEL  
WR WATER VALVE  
ANC ANCHOR  
FTR FUTURE  
NM NAIL NAIL

I HEREBY CERTIFY THAT THE ATTACHED "LAND DESCRIPTION AND SKETCH"  
IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS  
PREPARED UNDER MY DIRECTION ON MAY, 2000. I FURTHER CERTIFY  
THAT THIS "LAND DESCRIPTION AND SKETCH" MEETS THE MINIMUM TECHNICAL  
STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA ACCORDING TO CHAPTER  
645 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027,  
FLORIDA STATUTES, SUBJECT TO THE RULES PERTAINING SAID THEREON.

FOR THE FIRM, BY

*Richard E. Cousins*  
RICHARD E. COUSINS  
PROFESSIONAL SURVEYOR AND MATHS  
FLORIDA REGISTRATION NO. 4818

REVISIONS	DATE	BY/PG	OWN	CHK	PROPERTY ADDRESS
LAND DESCRIPTION & SKETCH	05/05/00	N/A	REC	Rec	5 W 29TH COURT
					SCALE: N/A
					SHEET 1 OF 2

A PORTION OF AN  
EXISTING 30' ROAD  
& UTILITY EASEMENT  
(ORD 13023, PG. 875, BCR)

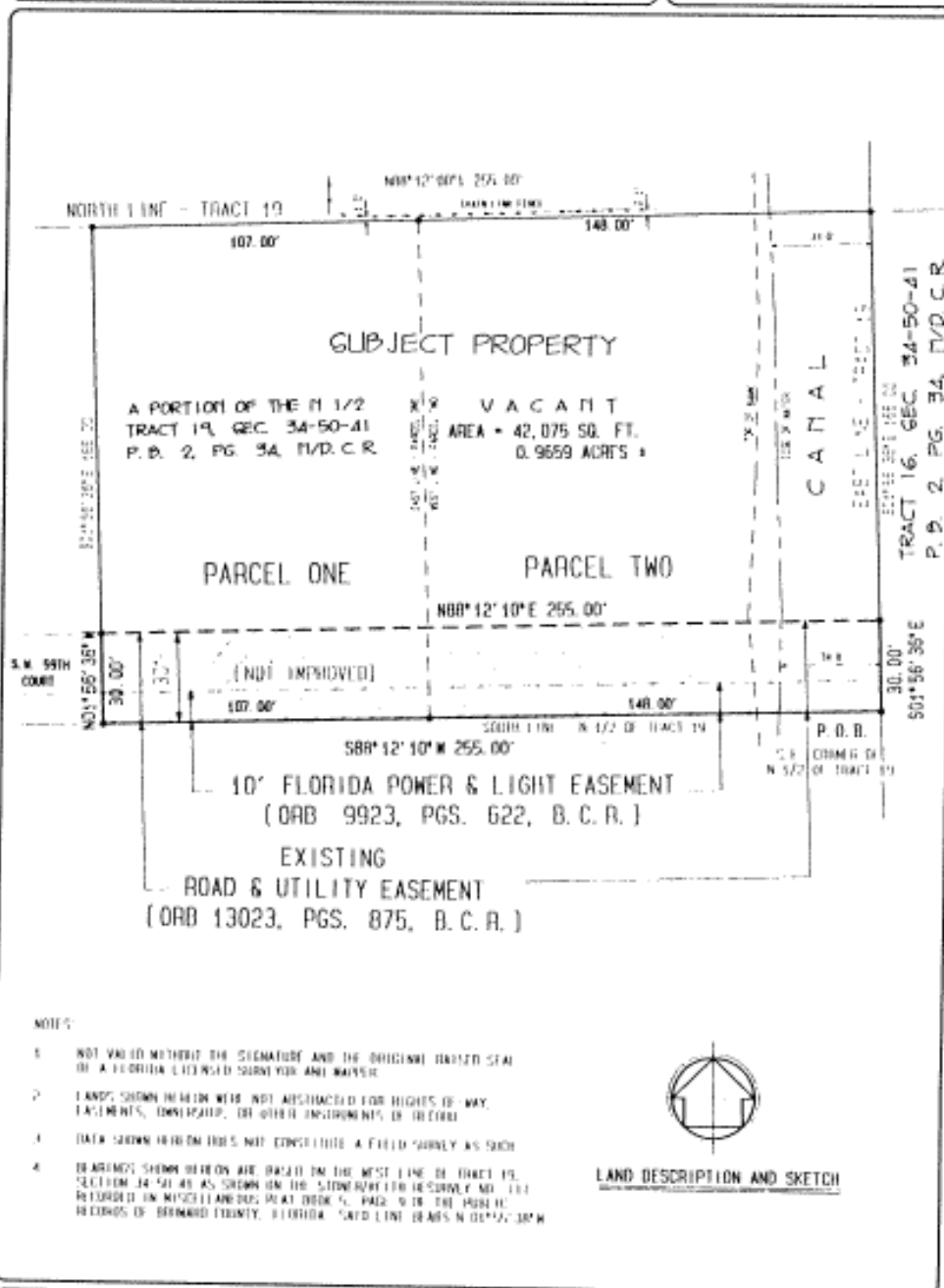
# COUSINS SURVEYORS & ASSOCIATES, INC.



5305 N.W. 75TH AVENUE  
DAVIE, FLORIDA 33328  
CERTIFICATE OF AUTHORIZATION: 111-6448  
PHONE (954) 680-9895 FAX (954) 680-0213

PROJECT NUMBER: 2632-99

CLIENT:  
GREENSPOON, WARDER, HIRSCHFELD,  
RAFKIN, ROSS & BERGER



REVISIONS	DATE	BY/PG	OWN	CHK
LAND DESCRIPTION & SKETCH	05/05/01	M/R	R/C	Rec

A PORTION OF AN  
EXISTING 30' ROAD  
& UTILITY EASEMENT  
(ORD 13023, PG. 875, BCR)

PROPERTY ADDRESS  
S.W. 59TH CIRCLE

SCALE: 1" = 40'

SHEET 2 OF 2

**Application #:** VA 5-2-00  
Epstein/Peterson Vacation Request

**Revisions:**

**Exhibit "A"**

**Original Report Date:** December 11, 2000

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**TOWN OF DAVIE  
Development Services Department  
Planning & Zoning Division Staff  
Report and Recommendation**

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**Applicant Information**

**Owner:**

**Name:** Richard W. Epstein and  
Marie G. Peterson

**Address:** 2860 SW 85th Way

**City:** Davie, FL 33328

**Phone:** (954) 472-7810

**Agent:**

**Name:** Frank A. Utset

**Address:** Trade Centre South, Suite 700  
100 West Cypress Creek Rd.

**City:** Fort Lauderdale, FL 33309

**Phone:** (954) 491-1120

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**Background Information**

**Date of Notifications:** January 3, 2001

**Number of Notifications:** 19

**Application Request:** The applicant is requesting to vacate a portion of SW 59 Court right-of-way located east of SW 70 Avenue, extending approximately 255 feet in length east of the west limits of the site.

**Address/Location:** A portion of the 6700 block of SW 59 Court

**Land Use Plan Designation:** Special Classification Residential (2 du/ac)

**Zoning:** R-2, Low Density Dwelling District (2 du/ac)

**Existing Use:** Vacant land

**Proposed Use:** Open Space adjacent to single family residence

**Parcel Size:** 0.175 (7,650 square feet)

### **Surrounding Land Use:**

**North:** Single Family Residential  
**South:** Davie Town Center under construction  
**East:** Canal and Hidden Cove  
**West:** Single Family Residential

### **Surrounding Zoning:**

**North:** R-2, Low Density Dwelling District (2 du/ac)  
**South:** B-1, Neighborhood Business District & B-2, Community Business District  
**East:** RM-10, Medium Density Dwelling District (10 du/ac)  
**West:** R-2, Low Density Dwelling District (2 du/ac)

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## **Zoning History**

**Related Zoning History:** None

**Previous Requests on the same property:** None

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## **Development Plan Details**

The subject property abuts a .965 acre proposed single family residence for the Epstein/Peterson's. The vacated right-of-way will be incorporated into the overall site for the project as open space adjacent to the side of the residence. Road to be cul-de-saced at the west limits of the subject site.

## **Summary of Significant Development Review Agency Comments**

The Engineering Department recommended approval of the subject request. Staff received letters of no objection from all utilities.

## **Applicable Codes and Ordinances**

Land Development Code Section 12-310(B)(1) requires that Town Council must review and approve vacations and abandonments by Ordinance.

## **Comprehensive Plan Considerations**

**Planning Area:** The proposed project is within the Planning Area No. 9 located south of Griffin Road, generally north of Stirling Road, east of SW 76 Avenue and

west of the Florida Turnpike. The area is predominantly agricultural in nature with scattered low-density single family residential development. Low profile commercial development lines Griffin Road, Davie Road, and Stirling Road corridors. Commercial developments along the south side of Stirling Road are somewhat deteriorated and should be evaluated for potential redevelopment opportunities.

**Flexibility Zone:** The subject property is located within Flexibility Zone 102.

**Concurrency Considerations:** None

**Applicable Goals, Objectives & Policies:** None

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### **Staff Analysis**

The right-of-way is not needed to provide access for the Epstein/Peterson's project as its provided from a T-turn around at the southwest corner of their parcel and the remaining portion of SW 59 Court to the west. The right-of-way is not needed for access to the property east off the subject site, as the right-of-way dead ends into a canal at the east end of the subject site. Road right-of-way will revert to the Epstein/Peterson's and will provide additional open space adjacent to the side of the residence.

### **Findings of Fact**

Subsections 12-310(A)(1)(a)&(b) require that review of vacation of right-of-way requests be based upon whether or not the request adversely affects access to neighboring properties and whether it will be in conflict with the public interest. Based upon this code requirement, staff finds that this request does not adversely affect adjoining properties as access is provided from either the remaining portion SW 59 Court or from SW 70 Avenue, and will not be contrary to the public interest.

### **Staff Recommendation**

**Recommendation:** Based upon the above and the findings of fact in the positive, staff recommends approval of application number VA 5-2-00.

### **Planning and Zoning Board Recommendation**

**PLANNING AND ZONING BOARD RECOMMENDATION:** Motion to recommended approval (Motion carried: 5-0, January 10, 2001).

### **Exhibits**



**Resolution, Justification Letter, Land Description and Sketch, Land Use Map, Subject Site Map, and Aerial.**

**Prepared by: \_\_\_\_**

**Reviewed by: \_\_\_\_**

LAW OFFICES OF  
*Greenspoon Marder Hirschfeld Rafkin Ross & Berger*  
PROFESSIONAL ASSOCIATION

William Breyer<sup>1</sup>  
Robby H. Bunkin<sup>2</sup>  
Gregory J. Blodig  
Amanda Chapman  
Richard W. Epstein  
Richard H. Gaines  
N. Wayne Gray, Jr.  
Gerald Greenspoon  
Neal W. Hirschfeld  
Cynthia J. Hoover<sup>3</sup>  
Robert Jackson  
Victor S. Kline  
David R. Lemois  
Scott D. Levine

Edmund O. Lios III  
Leonard Lubart  
Michael E. Marder  
Seth A. Marmor<sup>4</sup>  
Gregory M. Noudt  
Glen Rafkin<sup>5</sup>  
Michael S. Ross  
Joseph G. Santoro  
Dana S. Schwartz  
Marc F. Schwartz  
Kenneth J. Sobel  
Chad F. Tamuroff  
Frank A. Tuset

Trade Centre South • Suite 700  
100 West Cypress Creek Road  
Fort Lauderdale, Florida 33309  
(954) 491-1120 • Fax (954) 371-9264  
F.T. WA/S (888) 491-1120  
Web Site: [www.greenspoonmarder.com](http://www.greenspoonmarder.com)

Orlando Office

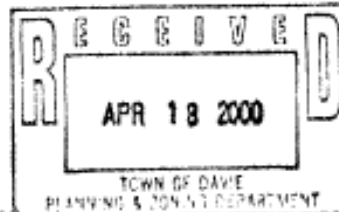
SouthTrust Bank Building • Suite 1100  
135 West Central Boulevard  
Orlando, Florida 32801  
(407) 425-6559  
Fax (407) 422-6583

April 18, 2000

Re: Epstein Peterson

Jeri Baliss  
Town of Davie Zoning Department  
6591 Orange Drive  
Davie, FL

Re: Epstein Peterson  
6701 and 6711 SW 59<sup>th</sup> Court (Property)  
Petition for Right of Way Vacation  
File No. 015-4.0001RWE



Dear Ms. Baliss:

The undersigned counsel represents Richard W. Epstein and Marie G. Peterson, his wife (the Epsteins), the owners of the above referenced Property, in connection with their construction of a single family residence upon the Property. In order to configure the residence in a certain angle and satisfy set back requirements, it is necessary to vacate a portion of the existing Road and Utility Easement in favor of the Town of Davie, recorded in Official Records Book 13023, page 874, of the Public Records of Broward County, Florida (Easement), and in connection therewith, enclosed please find the following:

1. Greenspoon, Marder, Hirschfeld, Rafkin, Ross & Berger, P.A. Operating Account check in the amount of \$930.00;
2. Completed Petition for Right of Way Vacation, along with attachments;
3. Copy of Easement in favor of the Town of Davie recorded in Official Records Book 13023, page 874;
4. Copy of Property survey depicting the Right of Way to be vacated.

Please note, that the Epsteins do not seek to vacate the existing 10 foot Florida Power & Light Easement (FP&L Easement) which is depicted on the Property survey. To the best of our knowledge, the only utility facilities which are located within the Easement, are those of FP&L, which are actually within the FP&L Easement which will not be vacated. Both FP&L and BellSouth Telecommunications are in the process of forwarding their consent to the Epsteins petition for vacation of the Easement.

As you can see from the survey of the Property, the eastern most boundary of the Property abuts a canal, which is maintained by the South Broward Drainage District. Since the Property is the last parcel at the end of a dead end, and the eastern boundary of the Property abuts a canal, the portion of the Easement which will be vacated will not be necessary to provide both access or utility services to other parcels. The only parcel which will be benefitted by the easement will be the Property. The Epsteins will during the construction of their single family residence provide

<sup>1</sup> Also admitted in New York  
<sup>2</sup> Also admitted in Wisconsin  
<sup>3</sup> Also admitted in Texas  
<sup>4</sup> Also admitted in Colorado

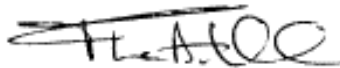
Jeri Baliss  
April 18, 2000  
Page 2

all utility companies with the necessary utility easements they may require across their Property. Thus, no other property owners, or utilities will be inconvenienced by the vacation of the portion of the Easement.

Your assistance and attention in connection with this matter is greatly appreciated. Please do not hesitate to contact me with any questions or comments you may have regarding this petition. I look forward to working with you.

Sincerely,

GREENSPOON, MARDER, HIRSCHFELD, RAFFIN,  
ROSS & BERGER, P.A.

A handwritten signature in black ink, appearing to read "Frank A. Utset", written in a cursive style.

FRANK A. UTSET  
For the Firm

FAU/jg  
Enclosure(s)  
cc: Richard W. Epstein, Esq.  
G:\ATTORNEY\JULIE BALISS\vacation of easement.rpt

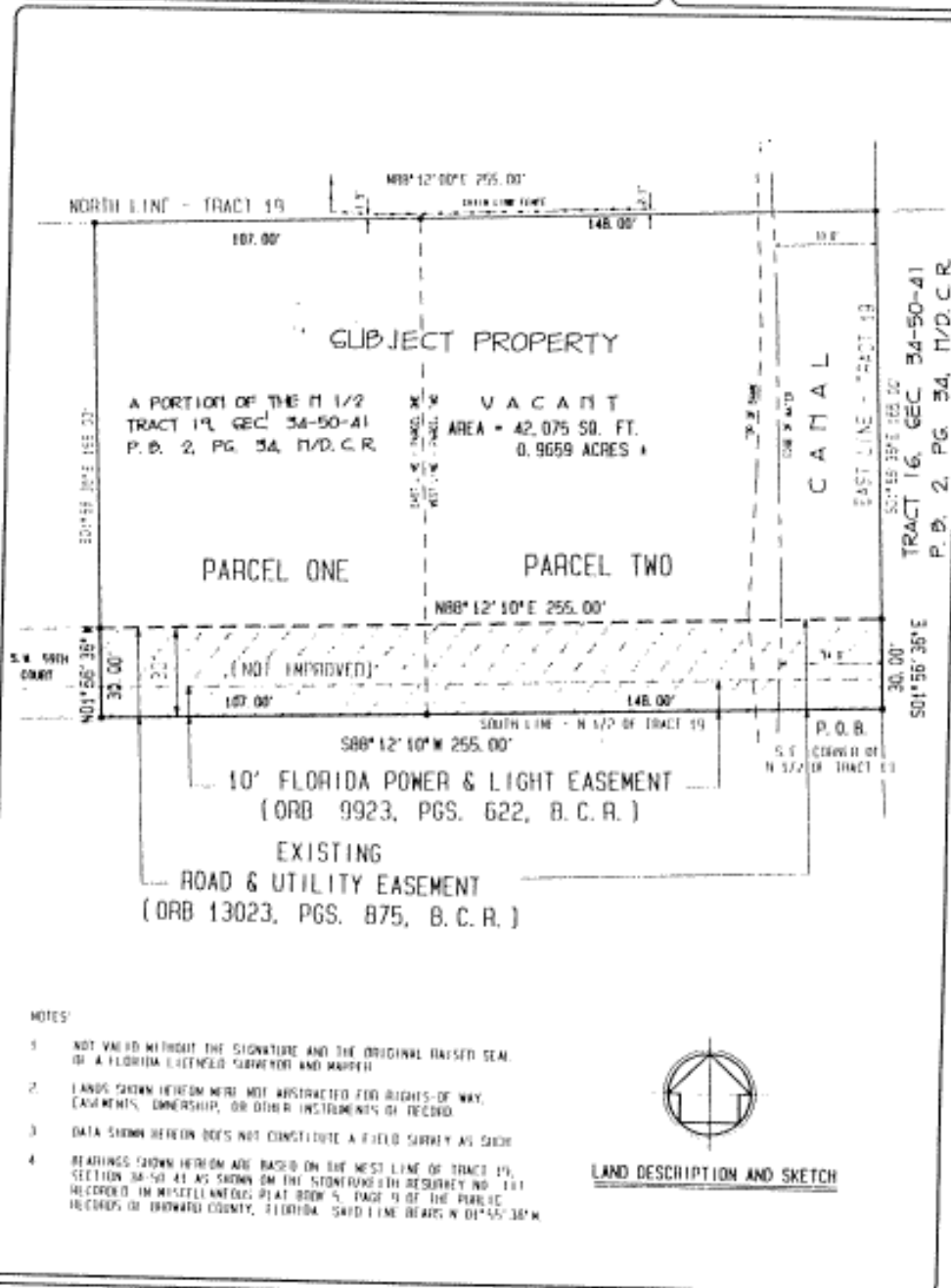
# COUSINS SURVEYORS & ASSOCIATES, INC.



5104 S.W. 76TH AVENUE  
DAVIE, FLORIDA 33328  
CERTIFICATE OF AUTHORIZATION: 18-6448  
PHONE (954) 690-9805 FAX (954) 690-0253

PROJECT NUMBER: 2632-99

CLIENT:  
GREENSPOON, WARDER, HIRSCHFELD,  
RAKIN, ROSS & BERGER



REVISIONS	DATE	BY/ING	OWN	CKD
LAND DESCRIPTION & SKETCH	05/01/00	N/A	REC	Rec

A PORTION OF AN  
EXISTING 30' ROAD  
& UTILITY EASEMENT  
(ORB 13023, PG. 875, BCR)

PROPERTY ADDRESS  
S.W. 59TH COURT

SCALE: 1" = 40'

SHEET 2 OF 2

# COUSINS SURVEYORS & ASSOCIATES, INC.



5,804 S.W. 26TH AVENUE  
DAVIE, FLORIDA 33328  
CERTIFICATE OF AUTHORIZATION: 1B \* 6448  
PHONE (954) 690-9885 FAX (954) 680-0211

PROJECT NUMBER : 2632-99

CLIENT :  
GREENSPOON, WARDER, HIRSCHFELD,  
RAKIN, ROSS & BERGER

## LAND DESCRIPTION AND SKETCH

A PORTION OF THE 30' EXISTING ROAD & UTILITY EASEMENT (DBB 13023, PG. 875, BCR)

A PORTION OF THE NORTH ONE-HALF (N 1/2) OF TRACT 19, SECTION 34 OF  
"EVERGLADES LAND SALES CO. SUBDIVISION OF SECTIONS 27 AND 34 AND THE WEST  
1/2 OF SECTIONS 26 AND 35 TOWNSHIP 50 SD RANGE 41 E Dade County, Florida"  
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 34 OF THE  
PUBLIC RECORDS OF MIAMI/DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF SAID NORTH ONE HALF (N 1/2) OF SAID TRACT 19,  
THENCE ALONG THE SOUTH LINE OF SAID NORTH ONE HALF (N 1/2) OF TRACT 19,  
SOUTH 88°12'10" WEST, A DISTANCE OF 255.00 FEET;  
THENCE NORTH 01°56'36" WEST, A DISTANCE OF 30.00 FEET;  
THENCE NORTH 88°12'10" EAST, A DISTANCE OF 255.00 FEET;  
THENCE SOUTH 01°56'36" EAST ALONG THE EAST LINE OF SAID TRACT 19, A DISTANCE  
OF 30.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

### LEGEND

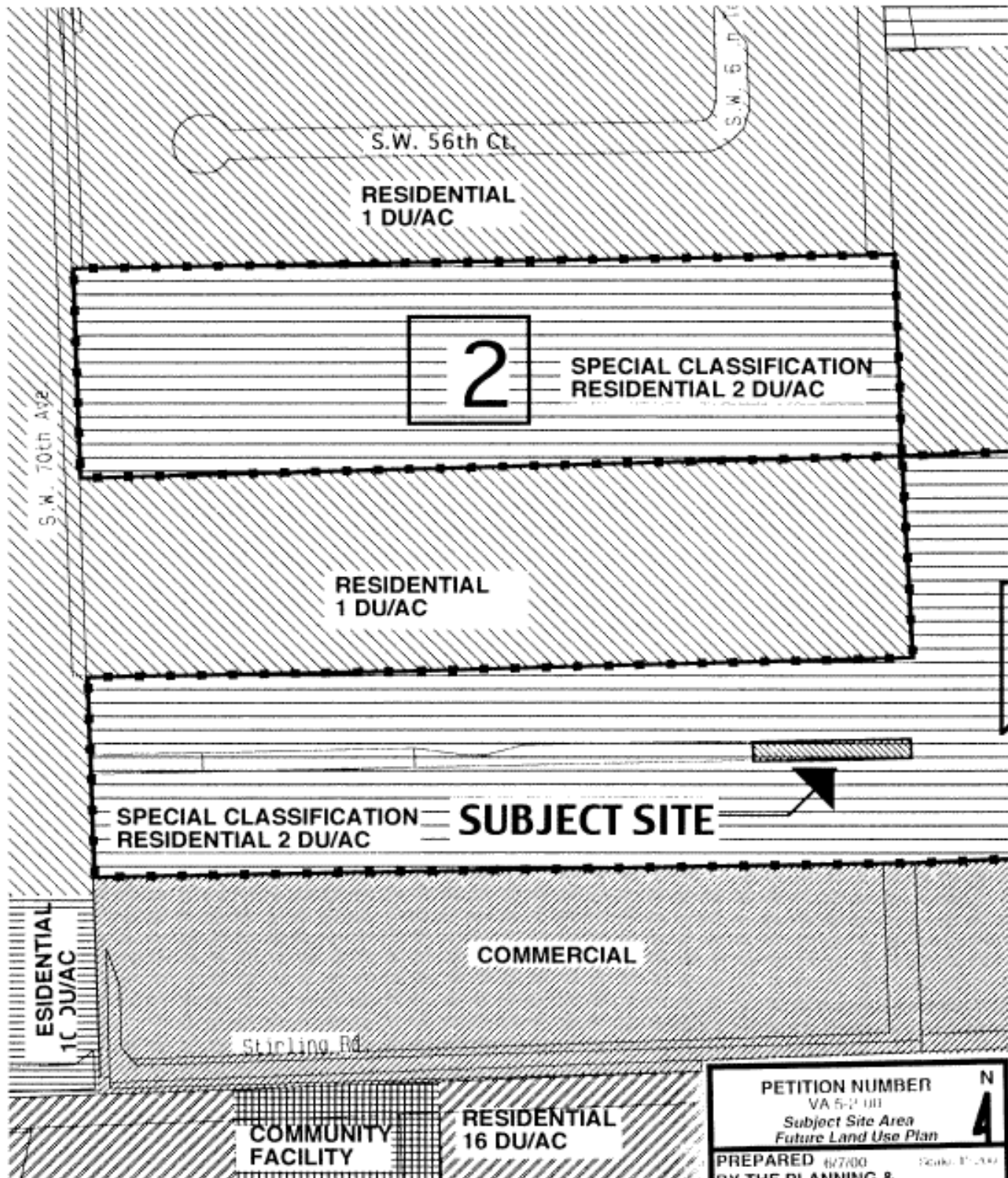
CRS	CONCRETE BLOCK STRUCTURE
END	CHERRY BY
CONC	CONCRETE
OWN	OWNED BY
FIELD	FIELD BOOK AND PAGE
A/C	WITH CONDITIONER SLAB
P.B.	PLAT BOOK
LR	LICENSE BUSINESS
B.C.R.	BROWARD COUNTY RECORDS
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
FPL	FLORIDA POWER & LIGHT
A	CENTRAL ANGLE
L	LINE LENGTH
R	RADIUS
WSP	WATER POWER POINT
WV	WATER VALVE
ANC	ANCHOR
FH	FIRE HYDRANT
WM	WATER METER

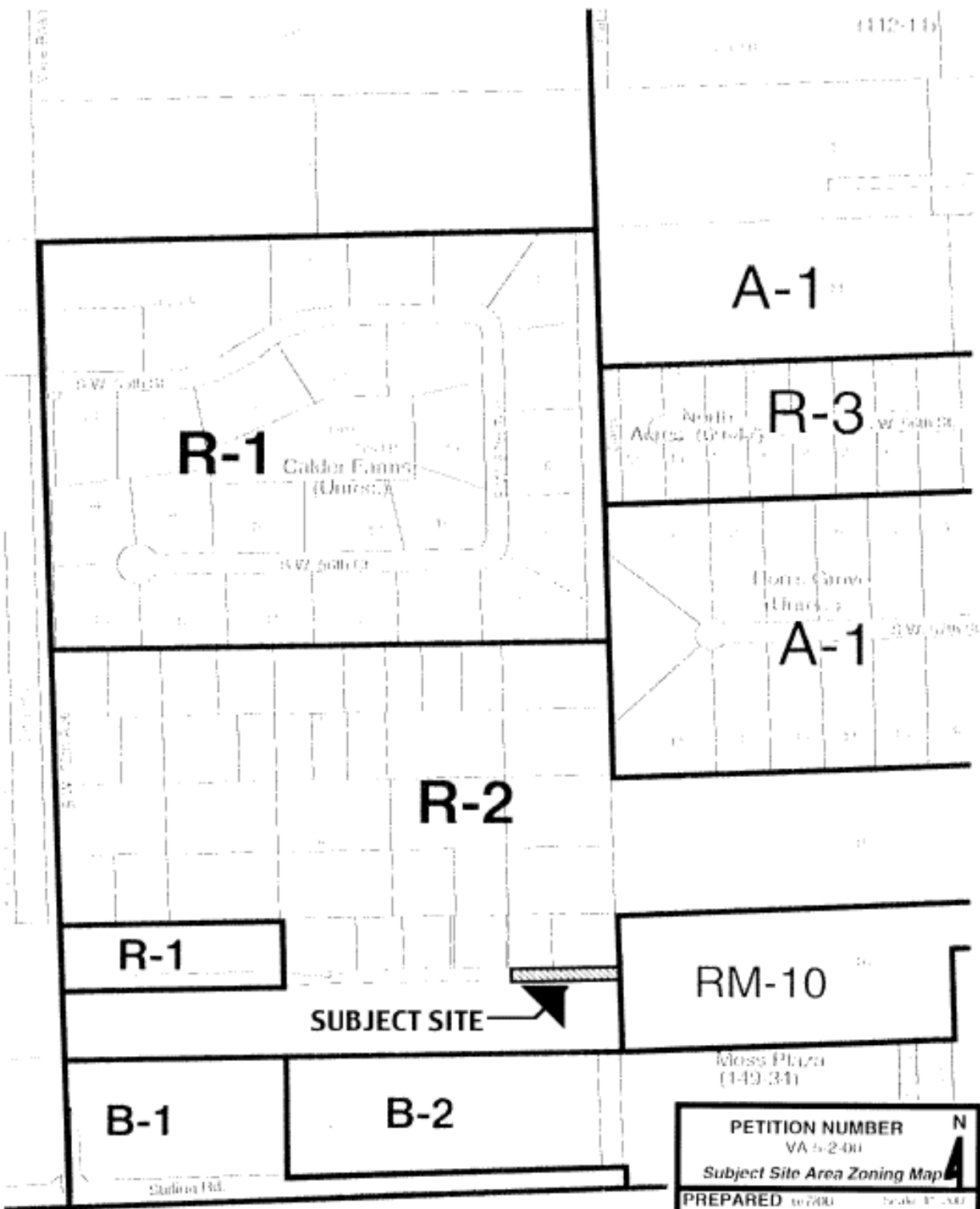
I HEREBY CERTIFY THAT THE ATTACHED "LAND DESCRIPTION AND SKETCH"  
IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS  
PREPARED UNDER MY DIRECTION ON MAY, 2009. I FURTHER CERTIFY  
THAT THIS "LAND DESCRIPTION AND SKETCH" MEETS THE MINIMUM TECHNICAL  
STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA ACCORDING TO CHAPTER  
650.17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 402.02,  
FLORIDA STATUTES, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

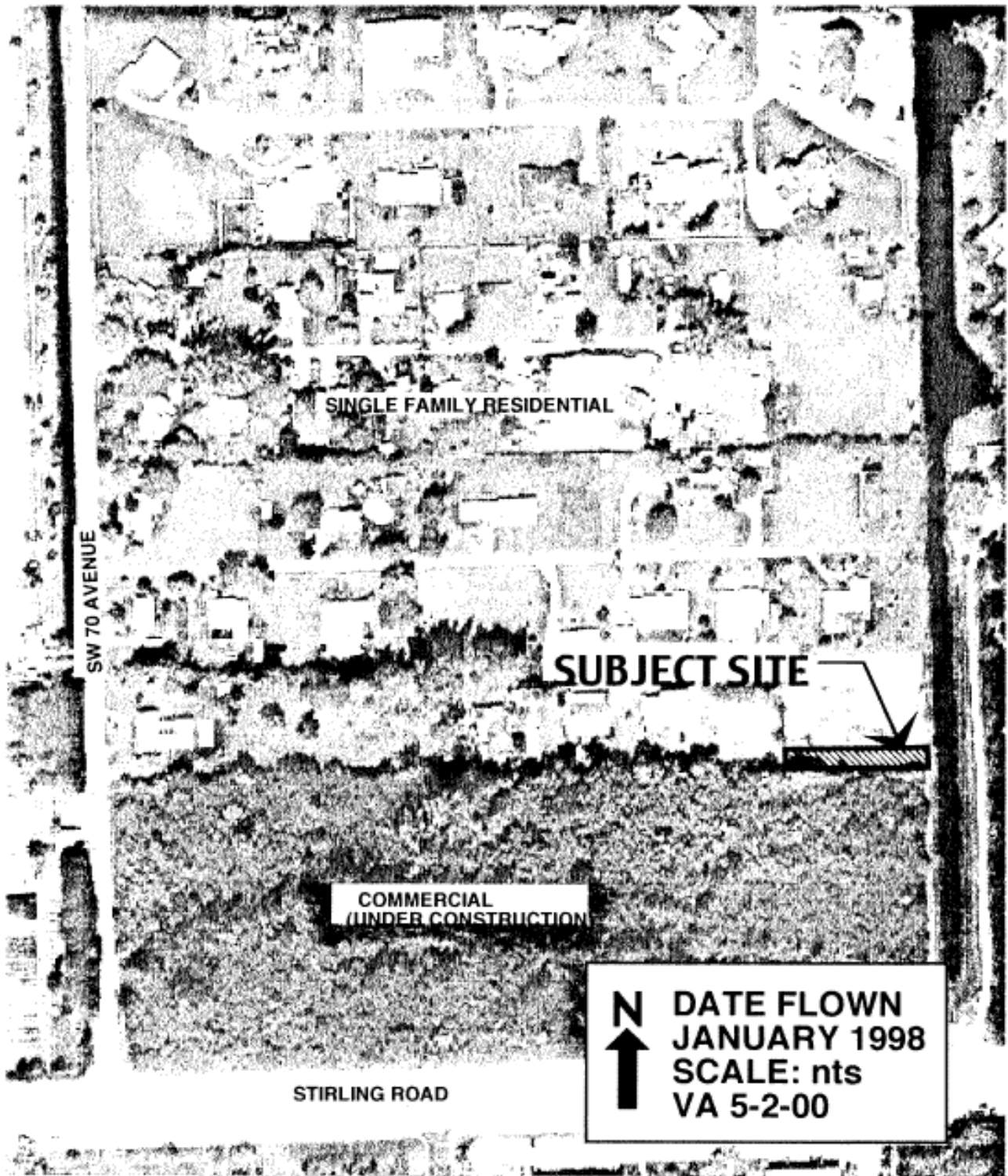
FOR THE FIRM OF: *Richard E. Cousins*  
RICHARD E. COUSINS  
PROFESSIONAL SURVEYOR AND MAPPING  
FLORIDA REGISTRATION NO. 4188

REVISIONS	DATE	FR/RS	OWN	CKD	PROPERTY ADDRESS
LAND DESCRIPTION & SKETCH	05/04/09	N/A	HFC	R.E.C.	S.W. 50TH COURT
					SCALE: N/A
					SHEET 1 OF 2

A PORTION OF AN  
EXISTING 30' ROAD  
& UTILITY EASEMENT  
(DBB 13023, PG. 875, BCR)







SINGLE FAMILY RESIDENTIAL

SW 70 AVENUE

SUBJECT SITE

COMMERCIAL  
(UNDER CONSTRUCTION)

STIRLING ROAD



DATE FLOWN  
JANUARY 1998  
SCALE: nts  
VA 5-2-00